IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No. 423 of 2004
in
Letters Patent Appeal No. 255 of 2006

The Addl.Director, Health
Services and Family Planning ..Appellant

vs.

1. Indian Red Cross Society
and others ..Respondents

Shri A.A.Kumbhakoni, Associate Advocate General with Shri A.P.Vanarase, A.G.P.for appellant.
Smt.Seema Sarnaik for respondent nos. 3 to 12.

CORAM: S.B.MHASE AND
Smt.V.K.TAHILRAMANI JJ.
29th January, 2007

P.C.

1. Heard the learned Counsel.

2. The appellant was not initially the party to complaint (ULP) No.843 of 1996. During the pendency of the said complaint it appears that because of the pleadings which were raised by the employer Red Cross Society the appellant was added as a respondent, however, formally and no relief was claimed. So far as the final order in the complaint is concerned unfair labour practice was declared only as against the Red Cross Society and its unit and no declaration under the ULP complaint was given as against the appellants. It is also

equally admitted position on record that relationship of employer employee is between the original complainant and Red Cross Society and its unit and not with the appellant or with the State Govt. It is only the funds, which are coming from the Central Govt., are routed through the State Govt. to the Red Cross Society. Except this there is no relationship of employer employee so as to create any liability as against the State Govt. It appears that probably the complainants employees were discharging similar work which is discharged by similar employees of the State Govt. and, therefore, by giving one of the directions it has been directed that the benefit of Vth Pay Commission be extended to the original complainants as was extended to the employees of the State Govt. However, that does not create any liability or obligation as against the State Govt. and, therefore, prima facie we find that it is improper to direct the State Govt. or the appellant to make payment of arrears. Such liability, if at all, is of the Red Cross Society and not of the State Govt. and/or of the appellants being the department of the State Govt. We are, therefore, inclined to grant interim stay in

terms of prayer clause (b). Rule made absolute in terms of prayer clause (b). The amount which has been deposited shall be returned to the State Govt.

3. Smt.Sarnaik, learned counsel for respondent nos. 3 to 12 prays for expeditious hearing of the writ petition. Hearing of the writ petition is hereby expedited.

(Smt.V.K.TAHILRAMANI J.) **(S.B.MHASE J.)**